IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7925 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MURLI LALCHAND MEGHANI

Versus

VADODARA MUNICIPAL CORPORATION

Appearance:

MR M.S.SHAH FOR MR SURESH M SHAH for Petitioner

MR PRANAV G DESAI for Respondent No. 1

MR PREMAL JOSHI, AGP for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 12/01/2001

ORAL JUDGEMENT

1. The petitioner, under an apprehension that the respondent - Corporation will remove the cabin of the petitioner without following the due procedure of law, had filed this petition seeking a direction on the respondent - Corporation not to take possession of the

land in question or to remove the cabin standing thereon. Interim relief was granted in favour of the petitioner on 29/11/1988 by Hon'ble Mr. Justice A.P.Ravani while issuing rule on the petition and it was directed that if the respondents feel aggrieved by the said order of interim relief, they may move the court within 15 days from the date of the receipt of the order. It appears that nothing has happened thereafter on that count.

2. According to the petitioner, his father was allotted a plot admeasuring 8 ft. x 9 ft. by the respondent for doing business in Panigate area of Vadodara on a yearly rental basis. On the land so let out to the petitioner's father, a cabin was erected in about 1968. After the death of his father, the petitioner started his business in the same premises of Radio & Electrical goods. The petitioner has relied upon the receipts at Annexure `A' and `B' to the petition in support of his contention that the premises were leased out to him on yearly basis.

3. The learned counsel appearing for the petitioner contended that though in para 4 of the petition, it was stated that the officers of the respondents were threatening the petitioner to dispossess him of the premises in question and to dismantle the cabin, the respondents have not cared to controvert this averments and therefore, it should be held that there was a justifiable apprehension on the part of the petitioner that the petitioner will be dispossessed without following due process of law. It was submitted that even averment that since 1948 the premises have been leased out on yearly basis is not controverted, and therefore also, the respondents should be restrained from disturbing the petitioner's possession except in accordance with law.

4. Though in the petition, it is tried to be contended that the premises were given on lease to the petitioner, it is evident from the receipts at Annexure `A' and `B' to the petition that the premises were given only on a license basis for a limited period. As per the receipt at Annexure `B', the license was given to hold the premises for the period from 1/11/1988 to 30/11/1988. The amount of Rs.57=60 is described as a license fee of the said premises. Since the premises were given on a license basis for a limited period, on the expiry of the license, the petitioner's right, if any, to hold the premises under the license stood terminated on 30/11/1988 by efflux of time. A license may, even during its currency, be revoked by the grantor, unless it is coupled

with a transfer of property and such transfer is in force, or the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution, as provided by section 60 of the Easements Act, 1882. A license is deemed to be revoked when it has been granted for a limited period, on the expiry of the period, as laid down by section 62[c] of the said Act. Since as per the receipt at Annexure `B' the license was granted for a limited period which ended on 30/11/1988, it is deemed to be revoked on the expiry of that period. The petitioner therefore has no right to claim any protection of his possession in respect of the licensed premises on the basis of the receipt Annexure `B' or on the ground that his entry in the licensed premises was lawful. The petitioner has not made out any ground for protecting his possession and by virtue of the interim order which has been operating all these years due to inaction of the respondents, the petitioner has virtually benefitted by remaining in possession under the protection of the Court order though his license is deemed to have revoked on the expiry of the period for which it was granted far back on 30/11/1988.

5. This petition is therefore rejected. Rule is discharged with no orders as to costs. Interim relief stands vacated. Needless to say that the petitioner will not be dispossessed except in accordance with law.

[R.K.ABICHANDANI, J.]

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